Muriel B. Kaplan, Esq. (SBN 124607) 1 Michele R. Stafford, Esq. (SBN 172509) SALTZMAN & JOHNSON LAW CORPORATION 44 Montgomery Street, Suite 2110 3 San Francisco, CA 94104 (415) 882-7900 (415) 882-9287 – Facsimile mkaplan@sjlawcorp.com 5 mstafford@sjlawcorp.com Attorneys for Plaintiffs BAY AREA PAINTERS AND TAPERS PENSION FUND, et al. 7 8 9 UNITED STATES DISTRICT COURT 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA 11 12 BAY AREA PAINTERS AND TAPERS Case No.: C07-6344 MHP 13 PENSION FUND, et al., **REQUEST TO CONTINUE CASE** 14 MANAGEMENT CONFERENCE Plaintiffs, 15 Date: September 8, 2008 Time: 3:00 p.m. **16** RODEO DRYWALL, INC. and TONY Dept.: Ctrm. 15, 18<sup>th</sup> Floor RODRIGUEZ, Judge: Hon. Marilyn Hall Patel 17 Defendants. 18 Plaintiffs hereby request that the Case Management Conference, currently scheduled for 20 Monday, September 8, 2008 at 3:00 p.m., be continued for 90-120 days. 21

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- 1. The Clerk entered the default of the defendants on January 23, 2008.
- 2. At the time of the initial conference, plaintiffs were in contact with Tony Rodriguez, who advised that he would submit his missing contribution reports (for the months of July, August and September 2007) "right away" and that he wanted to "work things out." I was prepared to either resolve this matter with the defendant, or, if necessary, file a Motion for Default Judgment. No reports were received, despite multiple follow up contacts by this office and thus the Motion was not filed as anticipated.

1	3. Due to the absence of the contribution reports, plaintiffs were unable to ascertain
2	what amounts, if any, were/ are owed to the Trust Funds. Defendants submitted all subsequent
3	contribution reports (October, 2007 to present), advising that there were no employees working.
4	4. I spoke to one of the Business Representatives for District Counsel 16, who
5	believes that Rodeo Drywall had work, and had Union employees working, during the time that he
6	was reporting "0" due in contributions.
7	5. As it appeared that there may be inconsistencies in reporting, I requested that an
8	audit be completed relative to Defendant's records. I filed an Amended Complaint in this action,
9	and defendant failed to respond. The default as to the Amended Complaint was entered on August
10	14, 2008.
11	6. The audit was completed as of last week. The auditors sent the report to the
12	defendant for comment, and payment. I am currently waiting for defendant's response to the
13	audit.
14	7. I am requesting that the Court continue the Case Management Conference to allow
15	the defendant to reply to the audit and provide any contrary documentation in his possession.
16	Thereafter, I am hopeful that this matter can be resolved, possibly by a payment plan. If not, as I
17	now know the exact amounts due, I will file a Motion for Default Judgment.
18	I declare under penalty of perjury that I am the attorney for the plaintiffs in the above
19	entitled action, and that the foregoing is true of my own knowledge.
20	Executed this 2 <sup>nd</sup> day of September, 2008, at San Francisco, California.
21	SALTZMAN & JOHNSON
22	LAW CORPORATION
23	Davis (a)
24	By:/s/ Michele R. Stafford
25	Attorneys for Plaintiffs
26	IT IS SO ORDERED. The CMC is reset for 12/8/2008 at 3:00 p.m., with a joint cmc statement to be filed by 12/1/2008.
27	Date: September 3, 2008  MARILAN H. PATEL
	IVIAKILAN H. PATEL

UNITED STATES DISTRICT COURT JUDGE

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